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INCOMING TELEGRAM *Department of State*

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Control: 12241
Rec'd: SEPTEMBER 17, 1962
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FROM: VIENTIANE

TO: Secretary of State

NO: 432, SEPTEMBER 17, NOON

ACTION DEPARTMENT 432, INFORMATION BANGKOK 259, CINCPAC 200, LONDON 159, PARIS 173, NEW DELHI 54, SAIGON, PHNOM PENH UNNUMBERED.

DEPT POUCH OTTAWA.

CINCPAC FOR POLAD

DEPTELS 216 AND 222

WE HAVE HAD SEVERAL DISCUSSIONS WITH ICC CHAIRMAN AVTAR SINGH ON CITATION VIET MINH FOR WITHDRAWING UNSEEN BY ICC IN VIOLATION ARTICLE 3 GENEVA PROTOCOL AND ON HIS GENERAL CONCEPT ICC ROLE WITH RESPECT FOREIGN MILITARY PRESENCE.

SINGH'S IMMEDIATE REACTION WHEN CITATION VIET MINH FOR TECHNICAL VIOLATION ARTICLE 3 IS RAISED IS TO RETORT, "YOU, TOO," POINTING TO INDIVIDUAL MAAG DEPARTURES WHICH TOOK PLACE PRIOR TO ESTABLISHMENT ICC CHECKPOINTS. HE GOES ON SAY, HOWEVER, THAT HE AND CANADIAN COMMISSIONER BRIDLE DECIDED NOT RPT NOT CONSIDER SUCH MOVEMENTS BY EITHER SIDE AS BREACHES ARTICLE 3 BEFORE COMMENCEMENT 30-DAY WITHDRAWAL PERIOD. (THEY DID NOT RPT NOT ASK POLE'S VIEW.)

DURING 30-DAY WITHDRAWAL PERIOD, SINGH WOULD DEEM SUCH DEPARTURES VIOLATIONS BUT FROM PRACTICAL POINT VIEW BELIEVES IT WOULD BE DIFFICULT AND PROBABLY IMPOSSIBLE PROVE BY TIME TEAM REACHED SCENE THAT VIET MINH HAD BEEN IN PARTICULAR SPOT AND WERE NOW GONE. (WE AGREE; DEPT WILL RECOGNIZE THAT USE OF SINGH FORMULA PERMITTING MORE OR LESS RANDOM INVESTIGATION IN PATHET LAO AREA DURING WITHDRAWAL PERIOD (EMBTELS 265 AND 271) IS PRECLUDED BY ESTABLISHMENT NHOMMARATH CHECKPOINT.)

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VIET MINH INVULNERABILITY DURING 3Ø-DAY PERIOD INCREASED BY FACT OF RLG FAILURE DESIGNATE ANY ROUTES OF WITHDRAWAL. THIS MEANS THAT IF VIET MINH WERE CHALLENGED NOW ANYWHERE IN LAOS, THEY COULD MAINTAIN THEY INTENDED LEAVE THROUGH PLAINE DES JARRES OR NHOMMARATH.

IN GENERAL SINGH BELIEVES THAT SINCE OUR OBJECTIVE IS TO GET VIET MINH OUT OF LAOS, WE SHOULD NOT RPT NOT BE TOO CONCERNED AS TO HOW THEY GO SO LONG AS THEY DO IN FACT DEPART. AT END 3Ø-DAY WITHDRAWAL PERIOD, UNLESS RLG STATES OTHERWISE HE WILL CONSIDER THAT LAO GOVT HAS IN EFFECT CERTIFIED THAT ALL FOREIGN FORCES ARE GONE; ANY FORCES REPORTED OR DISCOVERED IN LAOS AFTER THAT TIME WOULD THUS PRESUMABLY HAVE BEEN REINTRODUCED AND THEREFORE WOULD BE LIABLE TO CITATION UNDER ARTICLE 4.

ICC READY INVESTIGATE ANY SUCH REPORTS IMMEDIATELY, SINGH STRESSES, AND CAN DO SO OWING GENEVA PROVISION FOR MAJORITY VOTE; HE AND CANADIAN COMMISSIONER BRIDLE PLAN LOSE NO RPT NO TIME OVER DETERMINATION WHETHER REPORT CONTAINS SUFFICIENT EVIDENCE WARRANT INVESTIGATION BUT RATHER WILL INSIST ON RAPID INITIATION INVESTIGATION IN FIRST INSTANCE. SINGH TELLS US SOUVANNA HAS RECENTLY INDICATED TO HIM THAT HE WILL FULLY SUPPORT SUCH ICC INVESTIGATIONS.

SO FAR AS OUR SUBMISSION OF EVIDENCE FOREIGN MILITARY PRESENCE IS CONCERNED, SINGH CONSIDERS BEST METHOD IS FOR US GIVE INFO TO BRIDLE INFORMALLY. CANADIAN CAN THEN RAISE REPORT IN COMMISSION, CITING SOURCE OR NOT RPT NOT, DEPENDING ON PREVAILING SITUATION. SINGH OPPOSES OUR HANDLING EVIDENCE DIRECTLY TO COMMISSION PER SE, IN VIEW HIS CONSISTENT POSITION THAT ICC DEALS NOT RPT NOT WITH 14 GOVTS BUT WITH ONLY ONE, THE RLG. THOUGH WE COULD OF COURSE PRESENT INFO TO RLG FOR TRANSMISSION TO ICC, RISK THIS METHOD RUNS OF FRUSTRATING OUR INTENT IS OBVIOUS.

COMMENT: SINGH'S INTERPRETATION, WHICH WE CONSIDER UNLIKELY TO CHANGE, MEANS THAT ICC WILL NOT RPT NOT BE USEFUL INSTRUMENT

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-3- 432, SEPTEMBER 17, NOON, FROM VIENTIANE

TO U.S. IN DETERMINING EXTENT OF VIET MINH WITHDRAWAL SUFFICIENTLY IN ADVANCE OF 30-DAY DEADLINE TO BEAR ON ANY U.S. RECONSIDERATION OF MAAG DEPARTURE.

ENCOURAGING FOR FUTURE, HOWEVER, ARE SINGH'S CONTINUING INTENTION INVESTIGATE QUICKLY AND HIS FLEXIBLE APPROACH TO METHOD OF ICC'S RECEIPT EVIDENCE.

UNGER

BAP

NOTE: Pouched by DCT.

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